

**REPORT OF THE AUDIT OF THE
HARLAN COUNTY
SHERIFF**

**For The Year Ended
December 31, 2011**



**ADAM H. EDELEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE HARLAN COUNTY SHERIFF

**For The Year Ended
December 31, 2011**

The Auditor of Public Accounts has completed the Harlan County Sheriff's audit for the year ended December 31, 2011. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees increased by \$56,034 from the prior year, resulting in excess fees of \$806,955 as of December 31, 2011. Revenues increased by \$66,905 from the prior year and expenditures increased by \$10,871.

Report Comments:

- 2011-01 The Sheriff's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements
- 2011-02 The Sheriff Should Improve Internal Controls By Performing Monthly Bank Reconciliations Of The Official Fee Account And Reconciliations Of Drug Account Disbursements For Drug Buys
- 2011-03 The Sheriff Should Not Spend Fee Receipts On Disallowed Expenditures
- 2011-04 The Sheriff Cannot Account For \$37,668 In Drug Buy Monies
- 2011-05 The Sheriff Should Consult With The Harlan County Fiscal Court Ethics Commission Regarding Purchase Of Vehicle From A Former Employee's Spouse
- 2011-06 The Sheriff Should Submit Excess Fees To Fiscal Court At The Time Of His Settlement
- 2011-07 The Sheriff Should Submit Quarterly Reports To The Department For Local Government
- 2011-08 The Sheriff Should Monitor His Budget And Comply With Resolution Approved By The Fiscal Court

Deposits:

The Sheriff's deposits as of November 8, 2011 were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$369,268

The Sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.

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ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Joseph A. Grieshop, Harlan County Judge/Executive
The Honorable Marvin Lipfird, Harlan County Sheriff
Members of the Harlan County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees -regulatory basis of the Sheriff of Harlan County, Kentucky, for the year ended December 31, 2011. This financial statement is the responsibility of the Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the Sheriff for the year ended December 31, 2011, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated October 31, 2012 on our consideration of the Harlan County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Joseph A. Grieshop, Harlan County Judge/Executive
The Honorable Marvin Lipfird, Harlan County Sheriff
Members of the Harlan County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2011-01 The Sheriff's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements
- 2011-02 The Sheriff Should Improve Internal Controls By Performing Monthly Bank Reconciliations Of The Official Fee Account And Reconciliations Of Drug Account Disbursements For Drug Buys
- 2011-03 The Sheriff Should Not Spend Fee Receipts On Disallowed Expenditures
- 2011-04 The Sheriff Cannot Account For \$37,668 In Drug Buy Monies
- 2011-05 The Sheriff Should Consult With The Harlan County Fiscal Court Ethics Commission Regarding Purchase Of Vehicle From A Former Employee's Spouse
- 2011-06 The Sheriff Should Submit Excess Fees To Fiscal Court At The Time Of His Settlement
- 2011-07 The Sheriff Should Submit Quarterly Reports To The Department For Local Government
- 2011-08 The Sheriff Should Monitor His Budget And Comply With Resolution Approved By The Fiscal Court

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Harlan County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,



Adam H. Edelen
Auditor of Public Accounts

October 31, 2012

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2011

Revenues

Federal Fees For Service:

U.S. Army Corp of Engineers - Lake Patrol Contract	\$	5,580
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State Fees For Services:

Finance and Administration Cabinet	\$	87,035
Cabinet for Health and Family Services		1,480
Sheriff's Security Service		17,480
		105,995

Harlan County Outdoor Recreation Board Authority (HCORBA)		28,875
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Fiscal Court		91,036
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County Clerk - Delinquent Taxes		52,899
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Commission On Taxes Collected		538,954
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Fees Collected For Services:

Conveying Prisoners	8,014	
Auto Inspections	10,271	
Accident and Police Reports	221	
Serving Papers	33,308	
Carrying Concealed Deadly Weapon Permits	8,320	
	60,134	

Other:

Reimbursement - Ballgame Security	2,600	
Sheriff's 11% Penalty On Tax	51,840	
Telecommunications Tax Distribution	4,437	
Miscellaneous	1,599	
	60,476	

Interest Earned		945
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Total Revenues		944,894
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The accompanying notes are an integral part of this financial statement.

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
For The Year Ended December 31, 2011
(Continued)

Expenditures

Operating Expenditures and Capital Outlay

Contracted Services-

Vehicle Maintenance and Repairs \$ 1,108

Materials and Supplies-

Office Materials and Supplies 5,278

Uniforms 397

Other Charges-

Conventions and Travel 2,508

Postage 1,097

Reimbursements 638

Meal Allowance 250

County Tax Settlement 2,575

Background Checks 1,254

Transporting Prisoners 4,718

Storage 1,860

Training 11,908

Miscellaneous 3,480

Capital Outlay-

Equipment 10,752

Total Expenditures \$ 47,823

Less: Disallowed Expenditures

Undocumented Credit Card Charges 721

Late Fees, Finance Charges, Over The Limit Fee 198 919

Total Allowable Expenditures 46,904

Net Revenues 897,990

Less: Statutory Maximum 88,277

Excess Fees 809,713

Less: Training Incentive Benefit 2,758

Excess Fees Due County for 2011 806,955

Payments to Fiscal Court - Monthly 802,685

Balance Due Fiscal Court at Completion of Audit \$ 4,270

The accompanying notes are an integral part of this financial statement.

HARLAN COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2011

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2011 services
- Reimbursements for 2011 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2011

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

HARLAN COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2011
(Continued)

Note 1. Summary of Significant Accounting Policies (Continued)

D. Fee Pooling

The Harlan County Sheriff participates in a fee pooling system with the Fiscal Court. Fee officials who are required to participate in fee pooling deposit all funds collected into their official operating account. Residual funds are paid to the County Treasurer on a monthly basis. Invoices are submitted to the County Treasurer to document operating expenses. The County Treasurer pays almost all operating expenses for the fee official.

Note 2. Employee Retirement System

The county official and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost sharing, multiple employer defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability and death benefits to plan members. Benefit contributions and provisions are established by statute.

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.93 percent for the first six months and 18.96 percent for the last six months

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service credit must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months service credit.

CERS also provides post retirement health care coverage as follows:

For members participating prior to July 1, 2003, years of service and respective percentages of the maximum contribution are as follows:

Years of Service	% paid by Insurance Fund	% Paid by Member through Payroll Deduction
20 or more	100%	0%
15-19	75%	25%
10-14	50%	50%
4-9	25%	75%
Less than 4	0%	100%

As a result of House Bill 290 (2004 General Assembly), medical insurance benefits are calculated differently for members who began participation on or after July 1, 2003. Once members reach a minimum vesting period of ten years, non-hazardous employees whose participation began on or after July 1, 2003, earn ten dollars per month for insurance benefits at retirement for every year of earned service without regard to a maximum dollar amount.

HARLAN COUNTY
 NOTES TO FINANCIAL STATEMENT
 December 31, 2011
 (Continued)

Note 2. Employee Retirement System (Continued)

Historical trend information showing the CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, KY 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Harlan County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Harlan County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2011, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of November 8, 2011, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured \$369,268

Note 4. Asset Forfeiture Account - State

The Sheriff maintained a drug account during calendar year 2011. The drug account had a beginning balance of \$295,412 as of January 1, 2011. During 2011, the Sheriff received funds totaling \$36,101 which included interest income of \$221. The Sheriff expended \$160,731 resulting in an ending fund balance of \$170,782 at December 31, 2011, which is not available as excess fees.

Note 5. Asset Forfeiture Account - Federal

The Harlan County Sheriff maintains an official bank account for monies obtained from seizures and sales of property used in illegal drug activities. The purpose of this fund is to purchase necessary equipment for operating the Sheriff's office. The beginning balance as of January 1, 2011 was \$0. During 2011, the Sheriff received funds of \$41,742 which included interest income of \$28. The Sheriff properly expended \$5,819, leaving a balance of \$35,923 of forfeited funds in the account for calendar year 2011.

HARLAN COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2011
(Continued)

Note 6. U.S. Army Corp of Engineers - Lake Patrol Contract

The Harlan County Sheriff's Department entered into an agreement with the U.S. Army Corp of Engineers for the period beginning May 28, 2011 and ending September 5, 2011. The purpose of the grant is to provide law enforcement services at the Martins Fork Lake, Harlan County, Kentucky. The Sheriff received reimbursements of \$5,580 during the calendar year for salary reimbursements.

Note 7. Harlan County Outdoor Recreation Board Authority (HCOB) - Park Patrol Contract

The Harlan County Sheriff's Department entered into an agreement with the Harlan County Outdoor Recreation Board Authority for the period beginning July 1, 2011 and ending June 30, 2012. The purpose of the grant is to provide law enforcement services at the Black Mountain Off-Road ATV Park, Harlan County, Kentucky. The Sheriff received reimbursements of \$28,875 during the calendar year for salary reimbursements.

Note 8. K-9 Account - Donated Funds

During 2011, the Sheriff received donations of \$10,405 from various individuals and civic groups for the purchase of a K-9 Unit. The Sheriff expended \$10,180 from this account during 2011, leaving a balance of \$225 as of December 31, 2011.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



ADAM H. EDELEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Joseph A. Grieshop, Harlan County Judge/Executive
The Honorable Marvin Lipfird, Harlan County Sheriff
Members of the Harlan County Fiscal Court

**Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards**

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Harlan County Sheriff for the year ended December 31, 2011, and have issued our report thereon dated October 31, 2012. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the Harlan County Sheriff's office is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However, as described in the accompanying comments and recommendations, we identified certain deficiencies in internal control over financial reporting that we consider to be material weaknesses.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statement will not be prevented, or detected and corrected on a timely basis. We consider the deficiencies described in the accompanying comments and recommendations as items 2011-01 and 2011-02 to be material weaknesses.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Harlan County Sheriff's financial statement for the year ended December 31, 2011, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2011-03, 2011-04, 2011-05, 2011-06, 2011-07, and 2011-08.

The Harlan County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Harlan County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Adam H. Edelen', with a stylized flourish at the end.

Adam H. Edelen
Auditor of Public Accounts

October 31, 2012

COMMENTS AND RECOMMENDATIONS

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2011

INTERNAL CONTROL - MATERIAL WEAKNESSES:

2011-01 The Sheriff's Office Lacks Adequate Segregation Of Duties Over Receipts And Disbursements

The Sheriff's office has a lack of adequate segregation of duties over receipts and disbursements. During review of internal controls, we noted that the Sheriff's bookkeeper is responsible for collecting cash, posting receipts and disbursements to the ledgers, reconciling bank records to the ledgers, and preparing and signing checks. Although the Sheriff has implemented some compensating controls to help offset this lack of segregation of duties, no documented compensating controls were in place to offset the following material weaknesses:

- The Sheriff should not spend fee receipts on disallowed expenditures.
- The Sheriff did not complete monthly bank reconciliations of the official fee account and drug accounts.

We recommend the Sheriff implement the following compensating controls to offset this material weakness such as:

- The Sheriff could examine checks prepared by the bookkeeper and compare to proper documentation. This could be documented by initialing the supporting documentation.
- The Sheriff could examine all credit card statements and verify each charge with the corresponding receipt.
- The Sheriff could complete monthly bank reconciliations of the official fee account and drug account.

Sheriff's Response: We have tried to implement controls for an office our size but it is hard to have the personnel to accomplish this. Controls are in place such as I open and review all bank statements, I require dual signature on checks, and I open the mail with another employee.

2011-02 The Sheriff Should Improve Internal Controls By Performing Monthly Bank Reconciliations Of The Official Fee Account And Reconciliations Of Drug Account Disbursements For Drug Buys

During calendar year 2011, the Sheriff did not perform monthly bank reconciliations of the official fee account or reconciliations of drug account disbursements for drug buys. As a result of not performing bank reconciliations of the official fee account, there were receipts not posted correctly on receipts ledger and there were disbursements posted on the disbursements ledger that had not been paid correctly by the bank. If the Sheriff had performed monthly bank reconciliations, these errors would have been discovered in a timely manner. Also, by not reconciling the drug account disbursements for drug buys, that were cashed at the local bank, to the amounts that were advanced to detectives for drug buys and the remaining cash that was maintained in a locked safe and desk drawer in the Sheriff's office, the Sheriff could not account for approximately \$37,668 in drug buy monies from calendar year 2007 to the present day (See comment 2011-04). We recommend that the Sheriff improve internal controls over the official fee account and the drug account by performing monthly bank reconciliations of the fee account and reconciliations of drug buy disbursements from the drug account.

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2011
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESSES: (Continued)

2011-02 The Sheriff Should Improve Internal Controls By Performing Monthly Bank Reconciliations Of The Official Fee Account And Reconciliations Of Drug Account Disbursements For Drug Buys
(Continued)

Sheriff's Response: Since being brought to our attention, we have begun reconciling statements per our auditor standards. We have also gone to a debit card system, cash is no longer allowed in the office.

STATE LAWS AND REGULATIONS:

2011-03 The Sheriff Should Not Spend Fee Receipts On Disallowed Expenditures

Test procedures conducted during the 2011 audit revealed the Sheriff disbursed funds from the official fee account and from the drug account for credit card expenditures without receipts to verify these charges; and for late fees, finance charges, and an over the limit fee charged on the credit card statements.

In Funk v. Milliken, 317 S.W. 2d 499 (Ky. 1958), Kentucky's highest court ruled that county fee officials' expenditures of public funds will be allowed only if they are necessary, adequately documented, reasonable in amount, beneficial to the public, and not primarily personal in nature.

The following is a detailed listing of disallowed expenditures:

- \$721 in expenditures lacked any supporting documentation paid from the official fee account
- \$128 in expenditures lacked any supporting documentation paid from the drug account
- \$99 for late fees charged on credit card statements (not necessary) from fee account
- \$60 for finance charges on credit card statements (not necessary) from fee account
- \$39 for over the limit fee charged on credit card statement (not necessary) from fee account

We recommend the Sheriff avoid expenses that do not meet the Funk v. Milliken test. We also recommend the Sheriff personally reimburse the 2011 official fee account a total of \$919 and the drug account a total of \$128 for these disallowed expenses. Once the reimbursements are made, the Sheriff should then pay any additional excess fees to the Fiscal Court.

Sheriff's Response: We have implemented an entire new system of accounting for receipts. I will pay what I am required to pay.

HARLAN COUNTY
 MARVIN LIPFIRD, SHERIFF
 COMMENTS AND RECOMMENDATIONS
 For The Year Ended December 31, 2011
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2011-04 The Sheriff Cannot Account For \$37,668 In Drug Buy Monies

The Sheriff maintains an official drug account that he uses for drug enforcement purposes. Funds received into the drug account are a result of cases that have been decided by the court and a court order has been signed by the judge specifying that the Sheriff may use the seized funds for "direct law enforcement purposes." Disbursements are made out of the drug account for drug buys on cases that the Sheriff is working. Checks are cashed at the local bank and are advanced to the Sheriff's detectives for drug buys. The Sheriff also maintains cash for drug buys in his office in a locked safe and also in an unlocked drawer in his office.

On July 3, 2012, Auditor performed a surprise cash count of drug buy monies maintained in the Sheriff's office in a locked safe and also in the Sheriff's desk drawer. The Sheriff had a total of \$2 in a bank bag locked in the safe for drug buys. The Sheriff also had an Advance/Receipt log with the bank bag that was signed by the detective when receiving cash for drug buys and specified the amount that the detective received. The Advance/Receipt log also included the signature of the person that advanced the cash to the detective. The detective maintained an expenditure report for each month that would include the date of the advancement for drug buys and the amount he received on that date. He would also list the expenditures for that month for drug buys.

Auditor determined the total of all checks cashed at the local bank from the drug account for drug buys and monies advanced to detectives beginning January 1, 2007 through June 30, 2012:

<u>Disbursements From Drug Account For Drug Buys</u>		<u>Advancement To Detective For Drug Buys</u>	
<u>Calendar Year</u>	<u>Amount</u>	<u>Calendar Year</u>	<u>Amount</u>
2007	\$ 19,000	2007	\$ 18,200
2008	49,000	2008	46,500
2009	36,500	2009	32,300
2010	23,500	2010	11,350
2011	37,500	2011	27,880
2012	29,000	2012	20,600
Total: Disbursements \$ 194,500		Total: Advancements \$ 156,830	

Based upon surprise cash count of drug buy monies totaling \$2, reconciliation of checks cashed at the local bank totaling \$194,500 for drug buys, and advances to detectives totaling \$156,830, the Auditor determined the Sheriff has a total of \$37,668 in drug buy monies that are unaccounted for. We will refer this shortage in drug buy monies to the Kentucky State Police for further investigation.

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2011
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2011-04 The Sheriff Cannot Account For \$37,668 In Drug Buy Monies (Continued)

Sheriff's Response: I implemented a similar system used by KSP. However, when the auditor brought this to my attention, I went to the state police and requested they conduct an investigation. I had just dismissed an employee for theft and this employee had access to the cash and had assumed a lot of debt she was paying off from what I had been told after her dismissal. During the audit of the preceding year, the auditor asked about where the excess cash was at, I took her to my office, opened the safe, and started to hand her the money. She stated she didn't need to count it. If she felt there was an issue she should have brought it to my attention.

Auditor's Reply: During the prior year audit for calendar year 2010, the auditor performed routine audit procedures for the drug account. During the current year audit for calendar year 2011, the auditor expanded testing of the drug account based upon audit risk of the drug account disbursements. It was at this time that the Sheriff opened the safe located in his office and handed the auditor the bank bag that should have contained the cash for drug buys not during the prior year audit. When the auditor counted the cash in the bank bag, compared it with drug buy disbursements and what had been documented as being advanced to the detectives, it was determined that \$37,668 in drug buy monies could not be accounted for. It is important to note that, as in all cases, management is responsible for implementing proper internal controls to safeguard cash, and is not the responsibility of auditors.

2011-05 The Sheriff Should Consult with the Harlan County Fiscal Court Ethics Commission Regarding Purchase Of Vehicle From A Former Employee's Spouse

During calendar year 2011, the Sheriff purchased a 2004 Ford Explorer from a former employee's spouse. The Sheriff paid \$7,500 from the drug account for the vehicle. The 2004 Ford Explorer was a rebuilt vehicle that had been purchased by the employee's spouse from an insurance company. The vehicle was registered on January 25, 2011 by the former employee's spouse with a value of \$2,700. The former employee also performed the auto inspection for the 2004 Ford Explorer. The Sheriff traded the 2004 Ford Explorer on January 12, 2012 to a local automobile dealership owned by two former Sheriffs. The Sheriff was given a trade-in value of \$3,000 for the 2004 Ford Explorer and paid an additional \$8,500 from the drug account for a 2002 Ford truck.

According to the Harlan County Code of Ethics for County Officials and County Employees in Harlan County, Kentucky, Chapter II: Standards Of Conduct; Section A., no county government officer or employees or members of his immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest. Section B. states that no county government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others. Section C. states that no county government officer or employee shall act in his official capacity in any manner where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment.

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2011
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2011-05 The Sheriff Should Consult with the Harlan County Fiscal Court Ethics Commission Regarding Purchase Of Vehicle From A Former Employee's Spouse (Continued)

We will refer this matter to the Harlan County Ethics Commission to determine if the purchase of the 2004 Ford Explorer from a former employee's spouse is a violation of the Harlan County Code of Ethics.

Sheriff's Response: I had consulted with the County Attorney before the purchase of this vehicle and was advised that as long as it is of fair market value there should be no issue with the purchase. I had also consulted with the County Attorney before trading it in and was advised that if I received a fair trade in value there would be no issue. The \$2,700 was a salvage value; the \$7,500 was below the value after the repairs were made. The former employee disclosed in her ethical disclosure statement that her husband owned the business so this was an arms length transaction.

Auditor's Reply: This matter has been referred to the Harlan County Ethics Commission to determine if the purchase of the 2004 Ford Explorer by the Sheriff was a violation of the code of ethics.

2011-06 The Sheriff Should Submit Excess Fees To Fiscal Court At The Time Of His Settlement

The Sheriff presented his annual settlement to the Fiscal Court on January 19, 2012. The final payment of excess fees totaling \$292,877 for calendar year 2011 was not paid until April 11, 2012. KRS 134.192 (12) requires the Sheriff to pay to fiscal court any fees, commissions, and other income of his office, which exceeds the sum of his maximum salary and other reasonable expenses at the time he files his financial statement. We recommend the Sheriff comply with KRS 134.192 (12) and pay all excess fees to the fiscal court at the time of his settlement.

Sheriff's Response: This matter occurred during a bookkeeper change and the matter has since been rectified.

2011-07 The Sheriff Should Submit Quarterly Reports To The Department For Local Government

The Sheriff did not submit all quarterly reports to the Department for Local Government (DLG) as required by the State Local Finance Officer Policy Manual. The quarterly reports are due by the 30th day following the close of each quarter. We recommend the Sheriff comply with the policy manual and submit quarterly reports to DLG timely.

Sheriff's Response: Once again this occurred during a bookkeeper change and the matter has been rectified.

HARLAN COUNTY
MARVIN LIPFIRD, SHERIFF
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2011
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2011-08 The Sheriff Should Monitor His Budget And Comply With Resolution Approved By The Fiscal Court

The Sheriff fee pools with the Harlan County Fiscal Court. During calendar year 2011, the Sheriff spent \$46,904 from his official bank account for vehicle maintenance and repairs, office material and supplies, uniforms, gasoline, training, transports, equipment, and other miscellaneous items. The fiscal court passed a resolution on June 18, 2009 to allow the Sheriff to spend up to \$3,000 per month for a total of \$36,000 a year from his fee account. The Sheriff overspent the budgeted amount by \$10,904. We recommend the Sheriff monitor his budget and comply with the terms of the resolution by only paying expenditures directly out of his fee account that he is authorized to pay. The fiscal court should pay all others. Expenditures paid by the fiscal court should be reflected in the sheriff's budget as well.

Sheriff's Response: A different system has been implemented for accounting of receipts and expenditures.

